

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 KENNETH WARREN RHULE and
14 KENNETH JOHN RHULE,

15 Defendants.

CASE NO. CR20-0105-JCC

ORDER

16 This matter comes before the Court on the parties' stipulated motion to continue trial
17 (Dkt. No. 97).¹ Having thoroughly considered the parties' briefing and the relevant record, the
18 Court hereby GRANTS the motion for the reasons explained herein.

19 Trial is currently scheduled for April 19, 2021. (See Dkt. No. 85.) The parties argue a
20 continuance is necessary because the case is complex, the Government has produced over
21 341,000 pages of discovery to Defendants, and defense counsel need additional time to examine
22 the discovery, confer with their clients, and to effectively prepare pretrial motions and prepare
23 for trial. (See Dkt. No. 97 at 3–4.) The parties request that the Court schedule trial in November

24 ¹ The motion states that "Kenneth Warren Rhule agrees with the requested continuance" but does
25 not make a similar representation about Kenneth John Rhule. (Dkt. No. 97 at 4.) Further,
26 Kenneth Warren Rhule filed a Speedy Trial waiver but Kenneth John Rhule did not. (Dkt. No.
98.) Nevertheless, the Court understands that Kenneth John Rhule joins the motion because the
motion states expressly that he does and it is signed by his attorney. (See Dkt. No. 97 at 1, 5.)

1 2021. (*Id.* at 1.)

2 The Court also considers the context in which this motion arises. The COVID-19
3 pandemic continues to significantly impact the Court's operations. (See W.D. Wash. General
4 Orders 01-20, 02-20, 07-20, 08-20, 11-20, 13-20, 15-20, 18-20, each of which the Court
5 incorporates by reference.) Specifically, the pandemic has made it difficult for the Court to
6 obtain an adequate spectrum of jurors to represent a fair cross section of the community, and
7 public health guidance has impacted the ability of jurors, witnesses, counsel, and Court staff to
8 be present in the courtroom. (See generally *id.*) When the Court is able to resume in-person
9 trials, the Court is likely to continue to be limited by public health measures, such as limits on
10 the number of people in the courthouse and courtrooms, which are likely to limit the Court's
11 ability to try cases as efficiently as it would absent a pandemic.

12 Accordingly, the Court FINDS that the ends of justice served by continuing trial until
13 November 2021 outweigh the best interests of Defendants and the public to a speedy trial. *See* 18
14 U.S.C. § 3161(h)(7)(A). The reasons for this finding are:

- 15 1. Given the complexity of this case and the extraordinary volume of discovery, a failure
16 to grant a continuance would deny Defendants' counsel reasonable time necessary for
17 effective preparation. *See* 18 U.S.C. § 3161(h)(7)(B)(iv).
- 18 2. The COVID-19 pandemic has made it difficult for the Court to obtain an adequate
19 spectrum of jurors to represent a fair cross section of the community, which would
20 likely make proceeding with the current trial date impossible or would result in a
21 miscarriage of justice. *See* 18 U.S.C. § 3161(h)(7)(B)(i).
- 22 3. Public health guidance has impacted the ability of jurors, witnesses, counsel, and
23 Court staff to be present in the courtroom. Therefore, proceeding with the current trial
24 date would likely be impossible or would result in a miscarriage of justice. *See* 18
25 U.S.C. § 3161(h)(7)(B)(i).

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1 Accordingly, the Court ORDERS:

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- 1 The April 19, 2021 jury trial is CONTINUED until November 1, 2021 at 9:30 a.m.
- 2 The March 1, 2021 pretrial motions deadline is CONTINUED until September 3,
- 3 2021.
- 4 The period from the date of this order until November 1, 2021 is an excludable time
- 5 period under 18 U.S.C. § 3161(h)(7)(A).

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8 DATED this 15th day of March 2021.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE